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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 DUANE A. SINGLETON, )  
13 )  
14 Petitioner, ) No C 07-5969 VRW (PR)  
15 vs. ) ORDER TO SHOW CAUSE  
16 SANTA RITA COUNTY JAIL, ) (Doc # 2)  
17 Respondent. )  
18 \_\_\_\_\_ )

19 Petitioner, a state prisoner currently incarcerated at the Alameda County  
20 Jail, Santa Rita Facility, has filed a pro se petition for a writ of habeas corpus  
21 under 28 USC § 2254.

22 **BACKGROUND**

23 On June 2, 2006, petitioner pleaded no contest to possession of a  
24 controlled substance in Alameda County superior court and was sentenced to  
25 three years formal probation pursuant to Proposition 36.

26 Petitioner did not appeal, but in 2007 he began collaterally attacking his  
27 conviction in the state courts. The Supreme Court of California allegedly denied  
28 his last petition for state relief on September 27, 2007.

## DISCUSSION

### A. Standard of Review

This court may entertain a petition for a writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 USC § 2254(a).

It shall "award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." Id § 2243.

### B. Legal Claims

Petitioner seeks federal habeas corpus relief by raising claims of ineffective assistance of counsel and judicial misconduct. Liberally construed, the claims appear cognizable under § 2254 and merit an answer from respondent. See Zichko v Idaho, 247 F3d 1015, 1020 (9th Cir 2001) (federal courts must construe pro se petitions for writs of habeas corpus liberally).

## CONCLUSION

For the foregoing reasons and for good cause shown,

1. The clerk shall serve by certified mail a copy of this order and the petition, and all attachments thereto, on respondent and respondent's attorney, the Attorney General of the State of California. The clerk also shall serve a copy of this order on petitioner.

2. Respondent shall file with the court and serve on petitioner, within 60 days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on petitioner a copy of all portions of the state trial record that have been

1 transcribed previously and that are relevant to a determination of the issues  
2 presented by the petition.

3 If petitioner wishes to respond to the answer, he shall do so by filing a  
4 traverse with the court and serving it on respondent within 30 days of his receipt  
5 of the answer.

6 3. Respondent may file a motion to dismiss on procedural grounds in  
7 lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the  
8 Rules Governing Section 2254 Cases. If respondent files such a motion,  
9 petitioner shall file with the court and serve on respondent an opposition or  
10 statement of non-opposition within 30 days of receipt of the motion, and  
11 respondent shall file with the court and serve on petitioner a reply within 15 days  
12 of receipt of any opposition.

13 4. Petitioner is reminded that all communications with the court must  
14 be served on respondent by mailing a true copy of the document to respondent's  
15 counsel. Petitioner must also keep the court and all parties informed of any  
16 change of address.

17 SO ORDERED.

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19 VAUGHN R WALKER  
20 United States District Chief Judge  
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